

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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February 9, 2018

(REVISED STIPULATION LETTER)

VIA EMAIL:

Mr. Russell G. Martin, Senior Planner
City of Smyrna Community Development Department
3180 Atlanta Road
Smyrna, GA 30080

Re: Applications of Epic Homes, LLC to Annex and Rezone a 4.2 ± Acre Tract from R-20 (Cobb County) to RAD – Conditional (City of Smyrna) - No. Z17-023

Dear Rusty:

You will recall that this firm represents Epic Homes, LLC (“Epic”) regarding the above-captioned Applications for Annexation and Rezoning (the “Applications”). The Applications were heard and unanimously approved by the Smyrna Planning & Zoning Board on January 8, 2018. The Mayor and City Council will hear and consider the Applications and take final action on February 19, 2018.

Consistent with discussions with the City’s professional staff; the Planning & Zoning Board; area residents and business owners (including the Concord Lake Village HOA); and, discussions earlier this week with Ward 3 and Ward 5 Councilmembers, this letter will serve as Epic’s Revised expression of agreement with the following stipulations which, upon the Applications being approved, shall become conditions and a part of the grant of the requested Rezoning and Annexation and binding upon the subject property thereafter. The referenced Revised stipulations are as follows, to wit:

1. The Revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Applications.
2. The Annexation and Rezoning of the subject property shall be from R-20 (Cobb County) to RAD – Conditional (City of Smyrna) in substantial conformity to the Revised Site Plan which was submitted under separate cover on December 20, 2017, and being resubmitted concurrently herewith.

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3. The subject property shall be developed for the construction of fifteen (15) custom, quality-built single-family detached homes upon 4.2 acres at a density of 3.57 units per acre.¹
4. The size of the homes shall range from a minimum of 2,600 square feet and upwards and will contain 3 - 4 full bedrooms and 2.5 to 3 baths.
5. The architectural style and composition of the homes shall be in substantial conformity to the architectural renderings/elevations which are being resubmitted concurrently herewith. The composition of said homes shall meet City Code requirements and shall consist of a mixture of either brick, stacked stone, cedar/hardi shake and/or hardi plank siding.
6. Each of the homes shall have, at a minimum, an attached two-car garage which shall be designed at all times to accommodate at least two (2) vehicles. The driveways shall be a minimum of twenty-two feet (22') in length to accommodate the parking of two (2) additional vehicles.
7. All of the homes within the proposed residential community shall be "For Sale" homes which shall be reflected in the Mandatory Homeowners Association ("HOA") and the Declaration of Covenants, Conditions and Restrictions ("CCRs") which shall include, among other components, strict architectural controls.

The Mandatory HOA shall be responsible for the upkeep and maintenance of all common areas, tree preservation areas, required community Open Space, the stormwater management facility (detention/water quality) and landscaping.

8. A third-party management company shall be hired to manage the day-to-day operations of the HOA. The third-party management company shall also be responsible for the management of all association monies as well as ensuring that the association is properly insured until such time as the HOA makes a determination that it can undertake such responsibilities.

¹ Price points are anticipated ranging from \$400,000.00 to \$450,000.00 and greater.

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9. The submission of a Landscape Plan during the Plan Review process which shall be subject to staff review and approval and which shall include, but not necessarily be limited to, the following:
 - a. The Landscape Plan shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a degreed Horticulturist for common areas and other components of the residential community which shall be identified during the Plan Review process.
 - b. All HVAC systems and home utilities within the community shall either be underground or screened from view by way of fencing and/or landscaping.
 - c. The installation of sod in the front, side and rear yards.
 - d. The stormwater management facilities shall be landscaped and positioned appropriately in order to be attractive to homes inside and outside of the proposed residential community.
 - e. Compliance with the City's current Tree Preservation & Replacement Ordinance and substantial conformity to the Tree Survey/Tree Protection/Tree Replacement plans which were submitted concurrently with the Application for Rezoning. All required tree protection measures shall be adhered to during the construction and the buildout of the proposed residential community.
 - f. As shown on the Revised Site Plan, the perimeter of the subject property adjacent to rights-of-way and contiguous to Concord Park Subdivision shall be landscaped in a fashion consistent with the City's Arborist's recommendations and subject to the Arborist's review and approval.
 - g. Even though the current Revised Site Plan reflects a sidewalk along the subject property's frontage on Old Concord Road, Epic is agreeable to expanding the width of that sidewalk to seven feet (7') in width in order to enhance both pedestrian and cycling connectivity both now and in the future.

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10. Subject to recommendations from the City Engineer concerning hydrology, stormwater management and downstream considerations, including recommendations regarding the ultimate positioning and configuration of on-site detention and water quality. Additionally, detention for the community shall be designed to meet all of the City's stormwater codes, and subject to review and approval by the City Engineer. The conceptual Stormwater Management Report, dated November 20, 2017, was submitted under separate cover on December 4, 2017.
11. Compliance with the City of Smyrna's Public Works Director's comments and recommendations concerning water and sewer service and sewer capacity, all of which are located within Cobb County's unincorporated boundaries.
12. Compliance with the City of Smyrna Fire Marshall's recommendations with respect to Life-Safety and Fire Prevention issues, including the following:
 - a. Providing a turning model for the site to ensure that Fire Trucks are able to access the subject property.
 - b. Compliance with the City's turning performance analysis utilized for this type of single-family detached residential development.
13. The .217 acre (9,450 sq. ft.) tract of land located at the intersection of Concord Road and Old Concord Road shall be incorporated into the subject property's Open Space and managed as the balance of the subject property by the Mandatory HOA and subject to the CCRs. This particular tract of land is planned by Epic to be utilized for a passive recreational area, including a dog park component.
14. Setbacks shall be as follows:
 - a. Twenty-five foot (25') front setbacks.
 - b. Five foot (5') side setbacks.
 - c. Twenty-five foot (25') rear setbacks.

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These Revised stipulations/conditions represent Epic's acknowledgement that this single-family detached residential development is in keeping with the City's plans for the future development of properties along this corridor and in keeping with the City's strategic plan for the expansion of the City Limits. In that regard, this Annexation and Rezoning request is entirely appropriate from a Land Use Planning perspective.

Please do not hesitate to contact me should you or the staff require further information or documentation prior to these Applications being heard and considered for final action by the Mayor and City Council on February 19, 2018. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS, Jr./klk
Attachments

cc: Honorable Max Bacon, Mayor (via email w/attachments)
Members, Smyrna City Council (via email w/attachments)
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)
Mr. Kenneth Suddreth, Community Development Director (via email w/attachments)
Scott A. Cochran, Esq. (via email w/attachments)
Mr. Eric Randall, P.E., City Engineer (via email w/attachments)
Mr. Timothy Grubaugh, Deputy Fire Marshall (via email w/attachments)
Mr. Scott Stokes, Public Works Director (via email w/attachments)
Ms. Terri Graham, City Clerk (via email w/attachments)
Concord Lake Village HOA (via email w/attachments)
Mr. Joey Higgs, Epic Homes (via email w/attachments)
Parks F. Huff, Esq. (via email w/attachments)